

# Notice of Allowability

Application No.

10/605,547

Applicant(s)

BROWN, STEPHEN J.

Examiner

Robert L. Nasser

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to phone conversation of 3/15/2007.
2. ☒ The allowed claim(s) is/are 1-82.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

/Robert L. Nasser Jr./  
Robert L. Nasser  
Primary Examiner  
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An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Michelle Frank on March 16, 2007.

Claims 1, 24, 46, and 67 have been rewritten as follows:

In the specification;

In the section added via amendment on page 1 under cross reference to related applications:

In line 6, after the phrase April 26, 1994, a new paragraph has been started.

1. (Previously Presented) An airflow monitoring system comprising:
  - (a) at least one central server arranged to receive and communicate data;
  - (b) at least one microprocessor-based subsystem
    - (i) including at least one microprocessor, a display and a memory and
    - (ii) configured to present information on the display and provide a digital signal representative of airflow from a person and
    - (iii) arranged to establish a communication link with the central server, facilitate a communication of airflow-related data during the communication link to the central server and terminate the communication link after the communication of the airflow-related data has finished; and

(c) at least one professional computer in signal communication with the central server to receive health-related information based on the airflow-related data received from the microprocessor-based subsystem and to send at least one message from the professional computer to the central server, wherein the central server stores the message at least until after a communication link has been established by the microprocessor-based subsystem and sends the message to the at least one microprocessor-based subsystem.

24. (Currently amended) An airflow monitoring method comprising:  
monitoring airflow from a person by using at least one microprocessor-based subsystem including at least one microprocessor, display and memory;  
presenting information on the display to the person;  
producing a digital signal representative of the monitored airflow;  
establishing a communication link between the microprocessor-based subsystem and a central server;  
communicating airflow-related data to the central server across said link;  
terminating the communication link after the airflow-related data to server is completed;  
providing health-related information, based on airflow-related data communicated to the central server to at least one professional computer; and  
storing a message from said at least one professional computer on the central server for transfer to the microprocessor-based subsystem, where the central server stores the message at least until after a communication link has been established by the microprocessor-based subsystem and sends the message to the at least one microprocessor-based subsystem.

46. (Currently amended) A microprocessor-based apparatus for monitoring airflow, comprising:

(a) at least one central server arranged to receive and communicate data;

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- (b) at least one microprocessor, display and memory,
- (c) the memory being readable by the microprocessor and embodying program instructions executable by at least one microprocessor to
  - (i) cause information to be presented on the display,
  - (ii) process digital signals representative of airflow from a person; and
  - (iii) to facilitate communication of airflow-related data to the a central server and receive instructions from the central server for execution in the at least one microprocessor;
- (d) at least one health care professional computer in signal communication with the central server to receive health-related information and to send at least one message from the health care professional computer through the central server to the microprocessor-based subsystem, wherein the central server stores the message at least until after a communication link has been established by the microprocessor-based subsystem and sends the message to the at least one microprocessor-based subsystem.

67. (Currently amended) A microprocessor-based apparatus for airflow monitoring, comprising:

- (a) at least one central server arranged to receive and communicate data;
- (b) at least one microprocessor;
- (c) display;
- (d) a first memory in the form of an insertable program card or a cartridge; and
- (e) at least a second memory, the first and second memories embodying program instructions executable by at least one microprocessor to
  - (i) cause information to be presented on the display,
  - (ii) process digital signals representative of airflow from a person; and
  - (iii) to facilitate communication of airflow-related data to a remotely located computer and receive instructions from the remotely located computer for execution in the at least one microprocessor; and
- (f) at least one professional computer in signal communication with the central server to receive health-related information and to send at least one message from the professional

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computer through the central server to the microprocessor-based subsystem, wherein the central server stores the message at least until after a communication link has been established by the microprocessor-based subsystem and sends the message to the at least one microprocessor-based subsystem. –

The examiner notes that in updating the search on this application, the following points came to light:

(1) there was no definition of the term “server” on the record, and using a broad definition of server, the term means a computer that provides services to other computers via a network, and that the central station of Bornn performs such a function. In addition, in Ohayon, 4712562, the central station appears to be a server.

(2) both Ohayon and Karz establish connections periodically with the central station and transmit data, then disconnect.

(3) Ohayon has a professional provide a message to the patient through the central station. The message is not electronically sent from the professional to the central station, but it is the examiner’s position that given that Ohayon is from 1985, at the time of applicant’s filing it would have been obvious to electronically communicate, to avoid the need for manual dialing.

However, none of the art has a system where a professional computer provides a message to the central server, which is stored at least until a communication link is established between the microprocessor-based subsystem and the central server. Accordingly, the examiner

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phoned Ms. Frank and indicated that if the claims were amended to include the limitation of claim 1 in the last paragraph, they would be allowable.

However, the examiner notes that no double patenting rejection is pertinent over 5307263 or 5899855, as the newly claimed features are non-obvious over the prior art. In addition, the amendments make the current invention non-obvious over the claimed inventions in 09/237194, 11/004134, and 11/004135. In addition, since 11/004134 and 11/004135 are later filed application, the double patenting rejection in this case would be withdrawn anyway, and this case allowed to issue, as per MPEP 804IB.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Parks III et al 3810102 and Gombrich et al 4835372 show similar medical data communication systems to the present invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert L. Nasser whose telephone number is 571 272-4731. The examiner can normally be reached on m-f 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor II can be reached on 571 272-4730. The fax number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert L. Nasser Jr./  
Robert L. Nasser  
Primary Examiner  
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RLN  
March 19, 2007